

Initial Statement of Reasons

The Radiation Control Law (Health & Saf. Code, §§ 114960 – 115273), requires the California Department of Public Health (Department), the successor to the California Department of Health Services pursuant to the California Public Health Act (CPHA) of 2006 (Stats. 2006, c. 241 (Ortiz, SB 162)) as of July 1, 2007, to develop programs for licensing and regulating radioactive materials. (Health & Saf. Code, § 115000, subd. (b).) In 1962, the State of California ratified and approved the State entering into an agreement with the United States Atomic Energy Commission (AEC), the predecessor of the United States Nuclear Regulatory Commission (NRC), by which the federal agency discontinued its regulatory authority over certain radioactive materials. (Health & Saf. Code, § 115230.) By such action California became an "Agreement State."

A provision of the agreement between California and the NRC specifies that the State "will use its best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials." (Health & Saf. Code, § 115235, art. V.) NRC's stated policy is "to evaluate Agreement State programs established pursuant to Section 274 of the Atomic Energy Act (AEA) of 1954, as amended, to ensure they are adequate to protect public health and safety and compatible with NRC's regulatory program."¹ To determine a state's compatibility, the NRC uses Management Directive 5.9, *Adequacy and Compatibility of Agreement State Programs, Handbook 5.9*.² This handbook describes the specific criteria and process that are used to clarify the NRC program elements that should be adopted and implemented by an Agreement State for purposes of compatibility, and those NRC program elements that have a particular health and safety significance. The NRC rates the elements on the degree of compatibility required. Thus, the NRC requires that some be adopted by the states in a form identical to the NRC's while adoption of others need not be identical but are required to meet the essential objective of the program element. (For NRC compatibility definitions, see Attachment 1.) The overall determination of adequacy and compatibility for an Agreement State is made pursuant to Management Directive 5.6, *The Integrated Materials Performance Evaluation Program (IMPEP)*.³ The NRC evaluates Agreement States every three to four

¹ "Adequacy and Compatibility of Agreement State Programs," Management Directive 5.9, page 1. The document is available at the Nuclear Regulatory Commission, Office of State Programs website: <http://www.hsr.gov/nrc/procfm.htm>. (Reference 1.)

² "Adequacy and Compatibility of Agreement State Programs," Management Directive 5.9, Handbook 5.9. The document is available at the Nuclear Regulatory Commission, Office of State Programs website: <http://www.hsr.gov/nrc/procfm.htm>. (Handbook 5.9 is included within Reference 1.)

³ "Integrated Materials Performance Evaluation Program (IMPEP)," Management Directive 5.6. The document is available at the Nuclear Regulatory Commission, Office of State Programs website: <http://www.hsr.gov/nrc/procfm.htm>. (Reference 2.)

years to determine if a state's radiation safety program meets the adequacy and compatibility criteria. If California fails to meet those criteria the NRC may revoke California's status as an Agreement State.

Two federal agencies, the Department of Transportation (DOT) and the NRC have established strict requirements for packaging and shipping radioactive material. These requirements are based on the volume, nature and radioactivity of the material. DOT regulates package labeling, shipping papers, personnel training, handling and storage as well as transportation routing and vehicle requirements. The NRC regulates package safety to protect workers and the public. It also establishes regulations for radiation protection and regulates the use of radioactive materials, including the licensing and regulation of shippers and carriers.

Each year, there are approximately 400 million packages of hazardous material shipped in the United States. Radioactive materials account for less than one percent of these shipments. Of these three million packages containing radioactive material, the vast majority are shipments of radiopharmaceuticals and radioisotopes used in medical applications. Transported radioactive materials also include smoke detectors, luminous dials, sources used in non-destructive testing, and waste from industrial and medical facilities contaminated with small amounts of radioactive material.

The proposed changes to the California Code of Regulations are in response to changes made by the NRC regarding the packaging and transportation of radioactive materials found in title 10, Code of Federal Regulations (CFR), Part 71 (10 CFR 71). The NRC amended its regulations on packaging and transporting radioactive materials effective October 1, 2004. This rulemaking made the NRC regulations compatible with the latest version of the International Atomic Energy Agency (IAEA) standards. As international standards are updated, national and state regulations must be amended to maintain consistency and compatibility on all levels including the packaging and transportation of radioactive material across state and national borders.

The IAEA reviews its transportation regulations at intervals of about 10 years recognizing that its international regulations for the safe transportation of radioactive material should be revised periodically to reflect scientific and technical advances and experiences.

The NRC also periodically revises its regulations for the safe transportation of radioactive material to make them compatible with those of the IAEA. On August 5, 1983, the NRC published a revision of 10 CFR 71. That revision, in combination with a parallel revision of the hazardous materials transportation regulations of the Department of Transportation (DOT), brought U.S. domestic

transport regulations into general accord with the 1973 edition of the IAEA transport regulations. Another revision to 10 CFR 71 was published on September 28, 1995 (60 FR 50248) to make part 71 compatible with the 1985 IAEA Safety Series No. 6. The DOT published its corresponding revision to title 49, CFR (49 CFR) on the same date (60 FR 50291).

The last revision to the IAEA Safety Series 6, Safety Standards Series ST-1 was published in December 1996, and revised with minor changes on June 2000, and redesignated as TS-R-1. NRC Staff compared changes made in TS-R-1 and identified affected sections of 10 CFR 71. Based on this comparison, NRC amended 10 CFR 71 (69 FR 3697, January 26, 2004) and implemented those changes effective October 1, 2004.

Historically, the NRC has coordinated its part 71 revisions with the DOT because the DOT is the responsible national authority for transportation of hazardous materials. "Radioactive Materials" is a subset of "Hazardous Materials" in 49 CFR under DOT authority. Currently, DOT and NRC co-regulate transport of nuclear material in the United States.

To ensure compliance with the NRC agreement and compatibility of State regulations including consistency with DOT requirements, this proposal amends existing regulations relating to transportation of radioactive material and addresses those changes made by the NRC as noted in the following Federal Registers regarding transportation:

60 FR 50248 (Sep. 28, 1995)
69 FR 3697 (Jan. 26, 2004)

61 FR 28724 (Jun. 6, 1996)

The statutory authority and reference citation numbers of sections being amended are changed to reflect the numbering system implemented by the 1995 re-codification of the Health and Safety Code and the authority granted CPDH under the California Public Health Act of 2006, resulting in non-substantial change pursuant to title 1, California Code of Regulations, §100.

Alternatives have been considered in those areas not subject to or specifically limited by the adequacy and compatibility criteria under the State of California agreement with the United States Atomic Energy Commission, the predecessor to the United States Nuclear Regulatory Commission (NRC) (Health & Saf. Code, § 115230). NRC categories A and B require that the State be "essentially identical" to the NRC; category C requires that the "essential objectives" are met; category D is not required for purposes of compatibility; and category H & S is not required for purposes of compatibility, but does have health and safety significance and requires adoption of regulations meeting the essential objectives for an adequate program. According to the agreement, the state is to use its "best efforts to maintain continuing compatibility between its program and the

program of the [United States Atomic Energy] Commission for the regulation of like materials..." (Health & Saf. Code, § 115235, art. V).

The following table identifies the state regulation and its corresponding federal regulation found in 10 CFR 71 as of January 1, 2007, whether the requirements are identical and describes and explains any difference between the two and the reasons for the difference.

State Regulation 17CCR	10 CFR Section	Compatibility Category	Description and Rationale NE=No Equivalent, I=Identical, EI=Essentially Identical
30100(d)			<p>NE. Section 30100(d) is proposed to be amended for consistency with the California Public Health Act of 2006. That act reorganized the California Department of Health Services (DHS) into two departments; namely, California Department of Public Health (CDPH) and Department of Health Care Services (CDHCS).</p> <p>The programs administered under the Radiation Control Law were placed in the administrative control of CDPH. Therefore, §30100(d) is amended to reflect the reorganization of DHS pursuant to CPHA.</p> <p>Therefore, when the term "Department" is used within the regulations found in Title 17, CCR, Division 1, Chapter 5, Subchapter 4.0 it will clearly identify the CDPH as the State entity enforcing those regulations.</p>
30100 (f)			NE. Section 30100(f) is proposed to be amended for consistency with the

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			<p>corresponding DOT definition of “Hazardous radioactive material” found in 49 CFR 173.403 and those changes made by the Legislature in the 2003-2004 Legislative Session (Stats. 2004, ch. 193, § 121).</p> <p>Subsection (f) is amended for consistency with DOT’s current definition of “Hazardous radioactive material.” The federal register publication date of March 31, 1983 is proposed to be repealed because DOT has amended its regulation pertaining to the transportation of hazardous materials since that time. Because the most current federal DOT regulations are in effect and the Department cannot preempt them, a publication date is not specified. Further, as specified in Health and Safety Code §114820(c), regulations addressing transportation of radioactive material must be compatible with those established by the federal agency or agencies required or permitted by federal law to establish the regulations. Therefore, this proposal removes the reference date to ensure continued consistency with DOT’s regulations.</p> <p>Subsection (f) is also amended to change the referenced Health and Safety Code section from §114820(e) to §114820(d)</p>

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			because §114820 was amended through Senate Bill 111 (Stats. 2004, ch. 193, § 121) to repeal expired reporting requirements, which resulted in a redesignation of subdivisions. Thus, subdivision (e) was changed to subdivision (d). Further, subsection (f) is amended to make grammatical changes for consistency with other regulations that reference federal regulations (e.g. 30194.1, 30195.1, 30195.2, & 30253). Therefore, §30100(f) is amended for consistency and clarity with existing law and regulations.
30346.1(c)	39.31(a)(3)	D	EI. Subsection (c) is proposed to be amended to correct an inconsistency and to provide clarity. Currently, subsection (c) requires a licensee conducting well logging as defined in §30345.2(b)(19) to comply with 10 CFR 71 published June 8, 1988. Section 30373 also requires the licensee to comply with 10 CFR 71 published Nov. 30, 1988. Thus, it is unclear which version of 10 CFR 71 must be followed. Therefore, subsection(c) is amended to direct the licensee to §30373 so they can easily determine what regulations apply when transporting radioactive material.

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30373	Part 71		Section 30373 specifies the requirements for transporting radioactive material. The proposed changes address NRC's changes to 10 CFR 71. Compatibility categories for specific Part 71 sections are indicated in the January 26, 2004 publication of the Federal Register (69 Fed.Reg. 3697) and identified in the following discussion.
(a)			EI. Subsection (a) is amended to insert the phrase "on public highways" for consistency with 10 CFR 71.5. This is necessary because of the mobile use of radioactive materials where the "authorized location of use" is a vehicle that can be transported on the public highway system and must be transported safely for the protection of the public. This restriction in language clarifies this requirement in situations such as the above where the public is at risk if transportation of radioactive material is not controlled. This subsection is further amended to change the date of incorporation from November 30, 1988 to Jan. 1, 2007. This is necessary to address NRC's and DOT's changes to federal regulations pertaining to transportation of radioactive material to ensure regulations

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			<p>are consistent and compatible with federal agencies.</p> <p>Subsection (a) is further amended to identify exceptions to the incorporated material. Each item is addressed in the following sections.</p>
(a)(1)	See Description and Rationale	See Description and Rationale	<p>NE. Proposed subsection (a)(1) is needed to identify those sections of 10 CFR 71 that are not incorporated by reference. NRC has designated these sections or subsections as either compatibility category D or category NRC except that, in some instances, other categories are designated as discussed further. Agreement States are not required to adopt category D elements for purposes of compatibility or adequacy. However, Agreement States are not allowed to adopt category NRC elements, as they are reserved to the NRC under the federal AEA. In the order of listing in proposed subsection (a)(1), the compatibility categories for Part 71 sections that are not being adopted are:</p> <ul style="list-style-type: none"> • §§71.0 – 71.3: 71.0 is category [D,] except paragraph C is category [B]; 71.7 & 71.2 are category [D]; and 71.3 is category[B]. §§71.0(c) and 71.3 are addressed in subsection (a)

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			<p>because subsection (a) applies broadly to any person. The term “person” is defined in section 30100(l). If those two provisions were adopted, duplication would occur and clarity lost. Therefore, §§71.0(c) and 71.3 are not incorporated as they are already addressed in subsection (a).</p> <ul style="list-style-type: none"> • §71.6 – 71.13: category [D], except §71.8 is category [C]. Section 71.8 is not incorporated by reference because it is already addressed in 17 CCR 30105 and incorporating through this section would result in duplication. Therefore, §71.8 is excluded from incorporation in this proposal. Section 71.11 is reserved so there is no provision to adopt. • §71.13: category [B]. (This section is already addressed in §30373(b).) • §71.14(b): NRC. • §§71.18, 71.19, 71.24, 71.25, 71.31 – 71.45: category [D] except 71.18, 71.24, & 71.25 are reserved so no provision. • §§71.51 – 71.81: NRC except §71.81 is category [D]. • §§71.91, 71.93, 71.95, 71.99 & 71.100: category [D]. • §71.101(d), (e): NRC; (f):

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			<p>category [D].</p> <ul style="list-style-type: none"> • §71.103 (a): category [C] because the essential objective of this provision is the same as that of §71.101(b), which is proposed to be incorporated. Thus, it is not necessary to adopt this provision again. • §71.103(c) through (f): category[D]. • §71.105(b), (c) & (d): Paragraph (b) is category [C] because the essential objective of this provision is the same as that of §71.103(b), which is proposed to be incorporated. Thus, it is not necessary to adopt this provision again. Paragraphs (c) and (d) are category [D]. • §§71.107 – 71.125: NRC??? . • §§71.127 – 71.131: Category [C]-For those states which have licensees that use Type B packages, and have adopted the essential objectives of §71.105, it is not necessary for them to adopt this provision again. Therefore, because California has licensees that use Type B packages and this proposal adopts the essential objectives of §71.105, §§71.127 through 71.131 are not incorporated.

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			<p>Therefore, the following sections in Part 71 not listed in proposed subsection (a)(1) are incorporated by reference. NRC-compatibility category designation is indicated:</p> <ul style="list-style-type: none"> • §§71.4 – 71.5: §71.5 is Category [B]. Regarding §71.4, each term has its own compatibility category as follows: <ul style="list-style-type: none"> ○ A1: Category [B] ○ A2: Category [B] ○ Carrier: Category [B] ○ Certificate holder: Category D--for those States which have no licensees that use Type B packages. Category [B]--for those States which have licensees that use Type B packages. ○ Certificate of compliance. Category [D]--for those States which have no licensees that use Type B packages. Category [B]--for those States which have licensees that use Type B packages. See also discussion regarding proposed subsection (a)(2). ○ Close reflection by water: Category [D]. See also discussion regarding proposed subsection (a)(3). ○ Consignment: Category [B] ○ Containment System: Category D. See also discussion regarding proposed subsection (a)(3). ○ Conveyance: Category [B] ○ Criticality: Category [B]

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			<ul style="list-style-type: none"> ○ Deuterium: Category [B] ○ DOT: Category [D] ○ Exclusive use: Category [B] ○ Fissile material: Category [B] ○ Graphite: Category B ○ Licensed material: [D]. See also discussion regarding proposed subsection (a)(4). ○ Low Specific Activity (LSA) material: Category [B] ○ Low toxicity alpha emitters: [B] ○ Maximum normal operating pressure: Category D. See also discussion regarding proposed subsection (a)(3). ○ Natural thorium: Category [B] ○ Normal form radioactive material: Category [B] ○ Optimum interspersed hydrogenous moderation: Category D. See also discussion regarding proposed subsection (a)(3). ○ Package: Category [B] ○ Fissile material package or Type AF package, Type BF, Type B(U)F package, or Type B(M)F: Category [B] ○ Type A package: Category [B] ○ Type B package: Category [B] ○ Packaging: Category [B] ○ Special form radioactive material: Category [B] ○ Specific activity: Category [B] ○ Spent Nuclear Fuel or Spent Fuel: Category D. See also

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			<p>discussion regarding proposed subsection (a)(3).</p> <ul style="list-style-type: none"> ○ State: Category D. See also discussion regarding proposed subsection (a)(3). ○ Surface Contaminated Object (SCO): Category [B] ○ Transport Index: Category [B] ○ Type A quantity: Category [B] ○ Type B quantity: Category [B] ○ Unirradiated uranium: Category [B] ○ Uranium-- natural, depleted and enriched: Category [B] • §71.14(a): Category [B]. • §71.15: Category [B] • §71.17: Category [B] • §§71.20 – 71.23: Category [B] • §71.47: Category [B] • §71.83: Category [B] • §71.85: Category [B] • §§71.87 – 71.89: Category [B] • §71.97: Category B • §71.101(a), (b), (c)(1), & (g): Paragraphs (a), (b), and (c)(1) are Category C for those States which have users of Type B packages; Paragraph (g) is Category C. • §71.103 (b): Category C. • §71.105(a): Category C. • §71.133: Category C. • §71.135: Category C. • §71.137: Category C. • Appendix A: Category [B].

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(a)(2)	71.4	See Description and Rationale	<p>NE. Proposed subsection (a)(2) is needed to clarify that reference to the NRC within the incorporated regulation text is a reference to the Department with one exception regarding the definition of the term “Certificate of Compliance” (COC) found in 10 CFR 71.4.</p> <p>The exception is necessary to clarify that the Department does not issue the COC but does require licensees to have that document when required by the incorporated material. NRC has designated the term “certificate of compliance” as category B requiring Agreement States to adopt an essentially identical term and definition. Thus, under proposed subsection (a)(1), the term and its definition are incorporated. However, because the definition identifies NRC as the issuer of the COC pursuant to subpart D of 10 CFR 71 and NRC has designated the sections within subpart D (§§71.31 – 71.39) as category NRC, the reference to NRC cannot be modified since the Department, as an agreement state, is disallowed from approving package designs.</p>
(a)(3)	71.4	See Description and Rationale	<p>NE. Proposed subsection (a)(3) is needed to clarify that the following terms, designated as indicated below, are not</p>

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			<p>incorporated by reference:</p> <ul style="list-style-type: none"> • Close reflection by water: Category D • Containment system: Category D • Maximum normal operating pressure: Category D • Optimum interspersed hydrogenous moderation: Category D • Spent nuclear fuel or Spent fuel: Category D. • State: Category D and the content of the definition does not apply in California. <p>Except for the term "State," NRC designated the above terms as Category D because the terms relate to provisions designated as NRC. NRC states that a State may adopt this definition for purposes of clarity or communication. Agreement States can adopt this definition since it in and of itself does not convey any authority whereby a State can regulate in an exclusive NRC jurisdiction. However, if a State chooses to define the term, then the definition should be essentially identical. The department is not incorporating these terms by reference since it does not regulate those activities related to those terms.</p>
(a)(4)	71.4 "Licensed material"	[D]	NE. Proposed subsection (a)(4) is needed to prevent duplication of the term "licensed material" which is included in the

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			regulation text incorporated by reference in §30253. Section 30253 incorporates 10 CFR Part 20 and, as indicated by NRC (69 Fed. Reg. 3772 (Jan. 1, 2004)), for purposes of compatibility, the language of the Part 20 definition should be used.
(a)(5)	71.5	B	EI. Proposed subsection (a)(5) is necessary to clarify that DOT regulations identified in 10 CFR 71.5 are also included in the incorporated material. This proposed regulation incorporates 10 CFR 71.5, which references DOT (49 CFR) regulations. Thus, it is unclear whether 49 CFR regulations are incorporated. Therefore, this proposed subsection clarifies that the DOT's regulations are incorporated.
(b)			NE. No changes are made to subsection (b).
(c)	71.13	[B]	EI. Subsection (c) is proposed to be amended to clarify that physicians who transport radioactive material (RAM) must have a radioactive materials specific license or be identified on such a license as an authorized user. Current requirements are unclear as they could imply that the physician does not need to have a specific license when they are transporting RAM.

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			<p>However, Health and Safety Code §115165, in part, makes it unlawful for any person to receive any source of ionizing radiation, which includes RAM, unless licensed by the Department. 17 CCR 30190(c) requires persons wishing to possess RAM to obtain a specific license. Health and Safety Code §114985(h), in part, defines “specific license” as a license that is issued after application that authorizes the person to use RAM. Therefore, subsection (c) is amended to clarify that the physician is only exempt from transportation requirements under the specified conditions that were already in effect under the authority of statute and other regulation but not clearly specified in the transportation regulations.</p>
Note (2)			<p>NE. The note is amended for clarity to correctly identify from whom and where the adopted material can be obtained.</p>

STATEMENTS OF DETERMINATIONS

ECONOMIC IMPACT

The California Department of Public Health (Department) has determined that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the proposed regulations would not significantly affect the following:

1. The creation or elimination of jobs within the State of California.
2. The creation of new businesses or the elimination of existing businesses within the State of California.
3. The expansion of businesses currently doing business within the State of California.

LOCAL MANDATE DETERMINATION

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with Section 17500) of division 4 of the Government Code.

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would effect on small business.

ALTERNATIVES CONSIDERED

The Department has determined that no reasonable alternative considered by the Department or that has been otherwise identified or brought to the attention of the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

The radiation control program must maintain compatibility with the regulations of the United States Atomic Energy Commission, the predecessor to the United States Nuclear Regulatory Commission (Health & Saf. Code, § 115230). According to the agreement, the state is to use its "best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials..." (Health & Saf. Code, § 115235, art. V).

Alternatives have been considered in those areas not subject to or specifically limited by the adequacy and compatibility criteria under the State of California

agreement with the United States Atomic Energy Commission, the predecessor to the United States Nuclear Regulatory Commission (NRC) (Health & Saf. Code, § 115230). NRC categories A and B require that the State be “essentially identical” to the NRC; category C requires that the “essential objectives” are met; category D is not required for purposes of compatibility; and category H&S is not required for purposes of compatibility, but does have health and safety significance and requires adoption of regulations meeting the essential objectives for an adequate program. According to the agreement, the state is to use its “best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials...” (Health & Saf. Code, § 115235, art. V).

EFFECT ON HOUSING COSTS

The Department has made the initial determination that the proposed regulations will have not effect on housing costs.

Attachment & Reference list
Transportation
DPH-07-008

Attachments

1. NRC Compatibility Categories & Definitions

References

1. *Adequacy and Compatibility of Agreement State Programs*, Management Directive 5.9 as published in Volume 5: Governmental Relations and Public Affairs.
Available at <http://www.hsrdoornl.gov/nrc/procfrm.htm>.
2. *Integrated Materials Performance Evaluation Program (IMPEP)*, Management Directive 5.6 as published in Volume 5: Governmental Relations and Public Affairs.
Available at <http://www.hsrdoornl.gov/nrc/procfrm.htm>.
3. STP Procedure SA-200, *Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements*, pp. 143-161 (as indicated on document), available at:
<http://www.hsrdoornl.gov/nrc/procedures/sa200.pdf>.
4. Federal Register, Vol. 69, No.16, January 26, 2004, pp. 3697-3814, Final Rule, Nuclear Regulatory Commission, 10 CFR Part 71, *Compatibility with IAEA Transportation Safety Standards (TS-R-1) and Other Transportation Safety Amendments*.
5. Federal Register, Vol. 60, No. 188, September 28, 1995, pp. 50247-50289, Final Rule, Nuclear Regulatory Commission, 10 CFR Part 71, *Compatibility with the International Atomic Energy Agency (IAEA)*.
6. Federal Register, Vol. 61, No. 110, June 6, 1996, pp. 28723-28725, Correcting amendments, Nuclear Regulatory Commission, 10 CFR Part 71, *Compatibility with the International Atomic Energy Agency (IAEA); Correction*.

Attachment 1

NRC Compatibility Categories & Definitions

Categorization Criteria⁴

Category A: Basic radiation protection standard or related definitions, signs, labels or terms necessary for a common understanding of radiation protection principles. The State program element should be essentially identical to that of NRC.

Category B: Program element with significant direct trans-boundary implications. The State program element should be essentially identical to that of NRC.

Category C: Program element, the essential objectives of which should be adopted by the State to avoid conflicts, duplications or gaps. The manner in which the essential objectives are addressed need not be the same as NRC provided the essential objectives are met.

Category D: Not required for purposes of compatibility.

Category NRC: Not required for purposes of compatibility. These are NRC program elements that address areas of regulation that cannot be relinquished to Agreement States pursuant to the AEA or provisions of Title 10 of the Code of Federal Regulations. The State should not adopt these program elements.

Category H&S: Program elements identified as H&S are not required for purposes of compatibility; however, they do have particular health and safety significance. The State should adopt the essential objectives of such program elements in order to maintain an adequate program.

[]⁵ = A bracket around a category means that the Section may have been adopted elsewhere and it is not necessary to adopt it again.

Definitions⁶

Essentially Identical means the interpretation of the text must be the same regardless of the version (NRC or Agreement State) that is read.

Essential objective of a regulation or program element means the action that is to be achieved, modified or prevented by implementing and following the regulation or program element. In some instances, the essential objective may

⁴ Reference 1, pp. 4-7.

⁵ Reference 3, p. 7

⁶ Reference 1, pg. 17.

be a numerical value (e.g., restriction of exposures to a maximum value) or it may be a more general goal (e.g., access control to a restricted area).

Gaps means that the essential objectives of NRC regulations or program elements are absent from the Agreement state program and an undesirable consequence is likely to result in another jurisdiction or in the regulation of agreement materials on a nationwide basis.